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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/558,038 | 04/26/2000 | Gerhard Bienhaus | P101614-00001 | 9496 |

7590 01/10/2003

Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue N W
Washington, DC 20036-5339

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| EXAMINER |
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CHAKRABARTI, ARUN K

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| ART UNIT | PAPER NUMBER |
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1634

DATE MAILED: 01/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/558,038Applicant(s)
BienhausExaminer
Arun ChakrabartiArt Unit
1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Dec 16, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The proposed amendment especially the phrase, "in the absence of the magnetic force" raises new issues that would require further consideration and search.

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: 13-35
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

JEFFREY FREDMAN
PRIMARY EXAMINER

The request for reconsideration has been considered but does not place the application in condition for allowance because applicant's argument is not persuasive for the following reasons.

(1) New limitations in the proposed amended claims raise new issues that would require further consideration and search and therefore the proposed amendment has not been entered.

(2) Applicant argues that "biological compartments" is not taught by Reeve reference. This argument is not persuasive. As mentioned in the specification (Page 17, second paragraph), "biological compartments" is defined as a broad term which include any cells. Reeve clearly teaches such "biological compartments" in Column 6, lines 4-33.

(3) Applicant also argues that Reeve reference does not teach the same order of steps or mixing ingredients of the claimed invention. Applicant is hereby notified that "comprising" language of the claims allows any new steps to be added or reorientation of the method steps. Therefore, Reeve reference is still clearly applicable for the 102(e) rejection.

Therefore, neither the amendment nor the request for reconsideration has been entered.